



UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Thomas Lummis	Group No.: 3781
Serial No.: 10/758,459	Atty. Docket No.: 40661-031
Filed: 01/15/2004	
For: Cover for Modules of Fibrous	Examiner: Mai, Tri M.
Material	

MAIL STOP Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. SECTION 1.132

HONORABLE SIR:

I, Barton W. Daniel, declare and say as follows:

1. I am a citizen of the United States and reside at 3855 Princeton Oaks, Kennesaw, Georgia.
2. I am a co-inventor of the above-identified application and, therefore, I am completely familiar with the contents of the patent application and also with the disclosure contained in U.S. Patent No. 5,904,243 issued to Porter (hereinafter, "Porter '243"), cited in the Office action of August 13, 2007, in connection with the above-identified patent application and wherein the certain claims therein were rejected over the disclosure of this reference.
3. I have an Agricultural Engineering degree (1983) from Texas A&M University. I worked as a design engineer, field engineer, and in sales for Lummus Industries from 1984-1992.

From 1992 to 1996 I worked in manufacturing for the Karastan division of Mohawk Industries.

From 1996 to the present, I have been in sales, and performing engineering design for International Fiber Packaging where I currently hold the title of President.

4. From my direct experience over the course of my career that there has existed a long-felt and unresolved need in the market for module covers capable of withstanding strong gusts of wind. Given the fact that module covers are exposed to significant fluctuations in wind levels, many module covers are blown off modules or are blown into a position where the cover no longer protects the module. Given that the cost of module covers reduces profit, and that unprotected modules get wet and cannot be taken to the cotton gin, there has been a strong desire to have module covers that would not be blown off or blown out of adjustment because of strong gusts. Other people have tried without success to design module covers to provide a greater resistance to peak wind conditions.

5. In my view and based upon my experience, the results realized from the claimed configuration were unexpected and significant. Under my direction and control, we first began substantial empirical testing of the commercial embodiment of the claimed invention in Lubbock, Texas in 2003, as side-by-side comparisons to the Porter products on the market have been performed. Such empirical testing has shown that the claimed configuration (having no more than one point of contact between the securing strap and the support straps on respective sides) is able to withstand significantly higher peak wind conditions than other tested designs. Accordingly, I conclude that the claimed configuration that provides no more than one point of contact between the securing strap and the support straps on respective sides produces a greater resistance to the cover's being displaced by wind, which is unexpected and significant.

6. It is my understanding that there has been skepticism of experts. As Porter '243 suggests, it has been preferred to provide the support straps with multiple hanger means to support the securing strap. *See* Porter '243, Col. 7, Lines 13-18. It is my understanding that it has been assumed that the best and most reasonable design approach for securing covers is to have multiple hangers and thus multiple points of support in order to distribute resulting forces.

7. The claimed invention reads on the commercial embodiment of the claimed invention. There has been significant commercial success of the commercial embodiment of the claimed invention. In fact, the commercial embodiment of the claimed invention now represents more than 33% of our company's sales of four module covers types. Based upon my experience, this commercial success is a direct result of its greater resistance to being displaced by strong gusts – the cover stays on the module better.

8. I believe that the structural benefits of the design stem primarily from the concentration of vertical force along a single path, such as that created by the single point of contact between the securing strap and the support straps on respective sides of the cover. When a module cover counters the ripples of force created by the wind, the cover resists displacement due to vertical securing forces that result from friction between the horizontal support strap and the module. It is my observation that, during peak wind conditions, a concentration of the available securing force along a single path is more effective at resisting displacement caused by wind than distributing the available vertical force and reducing the likelihood of the cover's being blown off or damaged.

9. It is my best understanding that cargo nets, as disclosed in Frieder 3,011,820, are totally unrelated to module covers as claimed in the present invention in all aspects. Cargo nets and

module covers are used in totally different fields of application. Cargo nets are to transfer cargo, equipment, and the like, or to hold items down. They do not cover items or protect them from rain and the like. Moreover, cargo nets and module covers are totally different in their structures. Cargo nets which are mesh do not protect against rain and are generally unaffected by wind. Module covers are solid, protect against rain, and are highly affected by wind. The very properties associated with cargo nets are exactly opposite the properties that are required by module covers.

10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of the Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

12/7/2007
Date

Barton W. Daniel
Barton W. Daniel